

PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Applicant: Weichert, A.G et al.	Group Art Unit: 1626
Serial No. 10/541,047	Examiner: Kosack, Joseph
Application Date: 16 December 2003	Conf No.: 6092
US Nat'l Entry Date (if applicable): 29 June 2005	
For: SUBSTITUTED ARYLCYCLOPROPYLACETAMIDES AS GLUCOKINASE ACTIVATORS	
Docket No.: X-16029	

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
INDICATED IN NOTICE OF ALLOWANCE
SUBMITTED UNDER (37 C.F.R. § 1.705)

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Request for Reconsideration

- (1) The notice of allowance mailed on 30 January 2009, in the above-identified application included a notification of a patent term adjustment under 35 U.S.C. 154(b) of 239 days.
- (2) Applicant(s) request reconsideration of the patent term adjustment indicated in the notice of allowance mailed on 30 January 2009.
- (3) Please charge the requisite fee under 37 C.F.R. § 1.18(e) and charge any other fee that may be required by this or any other related paper, or credit any overpayment, to Deposit Account No. 05-0840.

Statement of Facts Involved:

(1) The correct period of adjustment of patent term due to examination delay, at the time of the transmittal of the Notice of Allowance, under 37 C.F.R. 1.702(a) through (e) is the sum of the following periods:

37 C.F.R. 1.702(a)	238 days
37 C.F.R. 1.702(b)	208 days
37 C.F.R. 1.702(c)	0 days
37 C.F.R. 1.702(d)	0 days
<u>37 C.F.R. 1.702(e)</u>	<u>0 days</u>
Total for § 1.702(a)-(e):	446 days

(a) As to 37 C.F.R. 1.702(a), the period as specified in 37 C.F.R. 1.703(a)-(e), less the reduction of period of adjustment as specified in 37 C.F.R. 1.704, is calculated as follows from the Patent Term Adjustment History of record in PAIR for the instant application:

37 C.F.R. 1.703(a)-(e):	269 days (USPTO Delay)
<u>37 C.F.R. 1.704:</u>	<u>31 days (Applicant Delay)</u>
Total for § 1.702(a):	238 days

(b) As to 37 C.F.R. 1.702(b):

The date three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application is: 6 July 2008.

The date of transmission of the Notice of Allowance is: 30 January 2009.

The period of delay beyond three years, at the time of the transmittal of the Notice of Allowance, is 208 days.

(2) The patent is not subject to a terminal disclaimer.

Remarks

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) included with the Notice of Allowance did not include the period beyond three years under 37 C.F.R. 1.702(b) which had accrued at the time of transmission of the Notice

of Allowance. See Wyeth v. Dudas, 88 USPQ2d 1583 (D.D.C. 2008).

The applicants request reconsideration of the patent term adjustment determination to extend the adjustment to 446 days.

The Examiner is invited to contact the undersigned attorney by telephone if there are any questions about this Submission or other issues that may be resolved in that fashion.

Respectfully submitted,

/James B. Myers/
James B. Myers
Attorney for the Applicants
Registration No. 42,021

Eli Lilly and Company
Phone: 317-276-0755
Patent Division/
P.O. Box 6288
Indianapolis, Indiana 46206-6288
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